

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.  
W.A. DREW EDMONDSON, in his capacity as  
ATTORNEY GENERAL OF THE STATE OF  
OKLAHOMA, and OKLAHOMA SECRETARY  
OF THE ENVIRONMENT C. MILES TOLBERT,  
in his capacity as the TRUSTEE FOR NATURAL  
RESOURCES FOR THE STATE OF OKLAHOMA,

Plaintiffs,

vs. No. 05-CV-0329 GFK-SAJ

TYSON FOODS, INC., TYSON POULTRY, INC.,  
TYSON CHICKEN, INC., COBB-VANTRESS, INC.,  
AVIAGEN, INC., CAL-MAINE FOODS, INC.,  
CAL-MAINE FARMS, INC., CARGILL, INC.,  
CARGILL TURKEY PRODUCTION, LLC,  
GEORGE'S, INC., GEORGE'S FARMS, INC.,  
PETERSON FARMS, INC., SIMMONS FOODS, INC.,  
and WILLOW BROOK FOODS, INC.,

Defendants.

VIDEO DEPOSITION OF DANIEL JOSEPH PARRISH  
TAKEN ON BEHALF OF THE DEFENDANTS  
ON JANUARY 14, 2008, BEGINNING AT 9:37 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

Videographer: Stephanie Britton  
Reported by: Lana L. Phillips, CSR, RPR

1 Cal-Maine defendants.

2 MR. TUCKER: John Tucker for  
3 Cargill.

4 MS. GRIFFIN: Jennifer Griffin for  
5 Willow Brook Foods.

6 THE VIDEOGRAPHER: The court  
7 reporter will now swear the witness.

8 DANIEL JOSEPH PARRISH,  
9 having been first duly sworn, deposes and says in  
10 reply to the questions propounded as follows:

11 DIRECT-EXAMINATION

12 BY MR. McDANIEL:

13 Q Good morning, sir.

14 A Good morning.

15 Q Would you state your full name,  
16 please.

17 A Daniel J. Parrish, P-a-r-r-i-s-h.

18 Q What does the J stand for?

19 A Joseph.

20 Q Okay. Sir, what is your employment?

21 A I'm employed with the Oklahoma  
22 Department of Agriculture, Food, and Forestry.

23 Q What's your title or your position?

24 A I am title of the Agricultural  
25 Environmental Management Services division,

1 let's move down to Title 35, Section 17-5-5, the  
2 specific requirements for animal waste management  
3 plans.

4 According to the regulations, number  
5 (1), a plan has to include: "A description of  
6 the poultry waste handling procedures and  
7 availability of equipment and type of equipment  
8 to be used"; correct?

9 A Yes. That's one of the minimum  
10 requirements.

11 Q All right. Let's -- and just so we  
12 haven't lost the context here, every registered  
13 poultry feeding operation in the state of  
14 Oklahoma is required to either possess an animal  
15 waste management plan or be in the process of  
16 obtaining one; correct?

17 A Either have an animal waste  
18 management plan or prove that they've applied for  
19 an animal waste management plan.

20 Q All right. And that's what we're  
21 going through, the requirements for those plans.

22 Number (2), the plan must include  
23 the "calculations and assumptions used for  
24 determining land application rates"; correct?

25 A Yes. In 35:17-5-5, that you're

1 reading, (a)(2), yes.

2 Q All right. Words referring to land  
3 application, that's talking about poultry waste;  
4 right?

5 A Yes. Correct.

6 Q All right. Number (3): "All  
7 nutrient analysis data, including soil and  
8 poultry waste testing"; correct?

9 A Yes.

10 Q All right. So in other words, in  
11 layman's terms, you've got to take samples of  
12 soil where it's going to be applied and you have  
13 to take samples of the poultry wastes that you're  
14 intending to apply; correct?

15 A Yes. That is correct.

16 Q All right. Number (4): "Legal  
17 description of the lands to be used by an  
18 operation for land application"; correct?

19 A Yes, that is correct.

20 Q All right. Is one of the objectives  
21 of this program that your division will know  
22 where poultry waste is being land-applied in the  
23 state of Oklahoma?

24 A That is one of the objectives of  
25 that. And then we rely upon what is submitted to

1 us.

2 Q All right. Next page, Subsection  
3 (5), animal waste management plan will include a  
4 "soils map with description and type or series."

5 Did I read that correctly?

6 A Yes, you did.

7 Q Can you tell me why that is a  
8 relevant issue for a animal waste management  
9 plan?

10 A Different soil types will be  
11 beneficial and/or harmful in what happens to that  
12 poultry waste as it's applied to that field, so  
13 the type of soil is very instrumental in what  
14 happened to the waste that is applied to those  
15 fields.

16 Q So an animal waste management plan  
17 is developed to be site specific. And what I  
18 mean by that, it's developed for that operation,  
19 those specific lands included within the scope of  
20 the plan; is that right?

21 A That is correct.

22 Q And so in order to provide  
23 appropriate guidance on waste management, one of  
24 the issues is to know the soils that are on those  
25 specific lands where the waste may be

1 land-applied; correct?

2 **A** Yes.

3 **Q** All right. Let's look at --  
4 continue to Subsection (7): "The procedures  
5 documented in the animal waste management plan  
6 shall ensure that the handling and utilization of  
7 poultry waste complies with the following  
8 requirements" -- and then it continues with a  
9 list. (A) is: "Adequate poultry waste storage  
10 shall be provided."

11 We've -- I think we've already  
12 talked about the basic issue there, that you  
13 can't store it exposed to rainfall or surface  
14 water; is that correct?

15 **A** Yes. In the second sentence of (A)  
16 you're reading: "Poultry waste shall not be  
17 stored without adequate protection from rainfall  
18 and runoff" addresses that.

19 **Q** All right. Let's go to (B):  
20 "Poultry waste shall not be applied to land where  
21 the ground is saturated or during rainfall  
22 events. Poultry waste shall not be applied to  
23 land when the ground is frozen or snow-covered,  
24 except in conformance with animal waste  
25 management plan."

1 Did I read that correctly?

2 **A** Yes, sir.

3 **Q** All right. Next requirement:

4 "Poultry waste shall only be applied to suitable  
5 land at appropriate times and rates as specified  
6 by the animal waste management plan. Runoff from  
7 poultry waste from the application site is  
8 prohibited."

9 Did I read that correctly?

10 **A** Yes, sir, you did.

11 **Q** All right. So am I correct, sir,  
12 that I read this to state that, for me as the  
13 operator, my animal waste management plan will  
14 tell me -- will specify the land application rate  
15 -- and this rule says I cannot exceed that rate.

16 Is that -- am I right?

17 **A** That would be your interpretation.  
18 That would be correct.

19 **Q** All right. Next, (D), the plan  
20 shall also include the following requirements:  
21 "All practices necessary to minimize movement of  
22 poultry waste to watercourses shall be utilized  
23 and documented within the animal waste management  
24 plan."

25 This item here, is this something

1 that the plan writer determines by going to the  
2 actual farm and evaluating what these practices  
3 are that will minimize movement of poultry waste  
4 to a watercourse?

5 **A** I can only speak to the two contract  
6 Department of Agriculture soil scientists that  
7 write plans. The answer is yes, I believe NRCS  
8 personnel do, but I have not accompanied them.

9 **Q** All right. Subsection (E): "Edge  
10 of field, grassed strips shall separate  
11 watercourses from runoff which may be carrying  
12 eroded soil and poultry waste."

13 Can you explain in layman's term  
14 what this means -- "edge of field, grassed  
15 strips"? What is that?

16 **A** If the edge of the field where  
17 they're applying poultry waste is close to a body  
18 of water, then there needs to be some type of  
19 vegetation -- in this case, it refers to grassed  
20 strips -- that will do some filtering out, and  
21 hopefully if there's runoff, that will not get to  
22 waters of the state. Grassed strips can reduce  
23 that, not always eliminate that.

24 **Q** Will the plan, itself, describe this  
25 grassed strip, as far as the width that has to be



1 maintained or the setback that is required?

2           **A**       In some of the plans, it does  
3 specify the width. In some of the plans, it does  
4 not specify the width.

5           **Q**       Have you heard the -- ever heard the  
6 term "buffer strip" before?

7           **A**       Yes, sir.

8           **Q**       Is a buffer strip equivalent to what  
9 we're talking about here -- these grassed strips?

10          **A**       Sure. In my opinion, a buffer strip  
11 is a vegetative strip that will serve as a buffer  
12 to hopefully reduce the amount of runoff that  
13 could get to waters of the state.

14          **Q**       All right. Let's look at (E) --  
15 excuse me -- (F): "Poultry waste application  
16 shall be prohibited on land subject to excessive  
17 erosion."

18                    You agree that's a requirement of an  
19 animal waste management plan?

20          **A**       That's a requirement, and it is as  
21 you read it, yes.

22          **Q**       All right. (G): "Land application  
23 rates of poultry waste shall provide controls for  
24 runoff as appropriate for site conditions."

25                    You agree that that's a requirement

1 of animal waste plans?

2 **A** Yes. As you read it, it is.

3 **Q** The animal waste management plan  
4 that provides the land application rates is also  
5 supposed to identify what controls to prevent  
6 runoff are to be utilized by the operator;  
7 correct?

8 **A** It lists that in the plan, that is  
9 correct.

10 **Q** All right. And those criteria for  
11 management of the poultry waste are based upon  
12 what is appropriate for that specific site;  
13 correct?

14 **A** There -- yes, they are site  
15 specific.

16 **Q** All right. Let's look at -- well,  
17 excuse me. We just went through this list here,  
18 (A) through (G).

19 Would you agree that (A) through (G)  
20 are best management practices?

21 **A** I would agree those are some best  
22 management practices that can be utilized.

23 **Q** (A) through (G) are best management  
24 practices that ODAFF has established and placed  
25 in its rules; correct?

1           **A**       Yes. They are some of the best  
2 management practices.

3           **Q**       Are there other best management  
4 practices that ODAFF has placed in its rules?

5           **A**       There are other best management  
6 practices that are part of the -- some of the  
7 animal waste management plans, that are even  
8 beyond what is here. This is an executive  
9 summary of what's in the rules, but there are --  
10 even it goes a little bit further I believe in  
11 some cases.

12          **Q**       Some are actually in the NRCS Code  
13 590.

14                    Agree?

15          **A**       Yes. Another -- another source. I  
16 believe there's others, but another source, yes.

17          **Q**       So by the reference we talked about  
18 a moment ago, those BMPs in the NRCS 590 are also  
19 in the rules by incorporation?

20          **A**       Most of them are, yes.

21          **Q**       All right. Subsection (b): "The  
22 animal waste management plan shall also include a  
23 method for the disposal of carcasses."

24                    You agree with that?

25          **A**       Yes. The way you read it is the way

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1 swine operations -- I can tell you what it is  
2 specifically, if you want to know the numbers --  
3 which are also CAFOs -- are definitely required  
4 to test for bacteria.

5 CAFOs that are not LMFOs are  
6 required to test for bacteria when -- assuming  
7 they have lagoons, which most of them do, then  
8 they are required to test for that from their  
9 lagoons, not as often as LMFOs.

10 Q Are there any LMFOs in the Illinois  
11 River watershed?

12 A Yes.

13 Q Those well sampling data comes back  
14 to your division? Is that correct?

15 A That is correct.

16 Q Are you aware of any currently  
17 pending complaints of water well contamination in  
18 the Illinois River watershed from animal manure?

19 A Please clarify for me. When you say  
20 "animal manure," are you including animal and  
21 poultry manure or only animal manure?

22 Q Well, I included poultry as an  
23 animal.

24 A Okay. I'm not aware of. But we get  
25 in complaints every day, so -- then do I break

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1       them down by watersheds? No. I'm not aware of,  
2       but I do not know that for a fact.

3               Q       Are you aware of any current citizen  
4       complaints of bacterial contamination of water  
5       from poultry litter in the Illinois River  
6       watershed?

7               A       I'm not aware of any on recent days  
8       or weeks. I cannot go back to 1997 when our  
9       division was formed.

10              Q       I understand. My question was  
11       current.

12                    So your answer is you're not aware  
13       of any?

14              A       On a current basis in the last  
15       couple of weeks, I am not aware of any.

16              Q       The statutory provisions, which is  
17       Exhibit 1 to your deposition, Section 10-9.10, I  
18       think it's labeled Investigation of Complaints,  
19       your AEMS -- your division of ODAFF has both the  
20       mechanism and the ability to receive citizen  
21       complaints and to investigate those complaints  
22       related to animal operations; correct?

23              A       We have the mechanism, and required  
24       by the law to do so.

25              Q       All right. And the jurisdictional

1 ultimately gets land-applied?

2           **A**       For a livestock auction, the answer  
3 is no.

4           **Q**       How about for a dairy?

5           **A**       Dairy -- if it's a licensed  
6 concentrated animal feeding operation, then yes.  
7 What they do with it and how they do with it and  
8 where they put it, then they are required, if  
9 they're a licensed concentrated animal feeding  
10 operation.

11          **Q**       Swine LMFO?

12          **A**       LMFO.

13          **Q**       LMFO.

14          **A**       There are swine CAFOs, concentrated  
15 feeding animal operations, that are smaller than  
16 2,500 head or 55 pounds. There are LMFOs,  
17 licensed management feeding operations, that are  
18 swine over 2,500 head, over 55 pounds. They are  
19 required to track it also. Both sets, whether  
20 they're CAFO or LMFO.

21          **Q**       And each of those has a waste  
22 management criteria applicable to that type of  
23 operation; is that right?

24          **A**       Yes. They're required -- if they're  
25 a licensed CAFO or licensed LMFO, required to

1 have an animal waste management plan that is part  
2 of the guidance and regulations that they have to  
3 adhere to.

4 Q Okay.

5 MR. McDANIEL: Do you mind sitting  
6 put and letting her change the tape?

7 (Off the record from 3:50 p.m. to 3:52 p.m.)

8 Q (BY MR. McDANIEL) Mr. Parrish, I've  
9 handed you Exhibit 14, which are some documents I  
10 can represent to you we copied out of ODAFF's  
11 records, related to an operation owned by an  
12 Oscar L. Swepston in Adair County, Oklahoma.

13 Are you familiar with this  
14 operation?

15 A I am familiar with this operation  
16 because of the documents that you have given to  
17 me that -- the latter pages of it are our  
18 division. The beginning pages of it has nothing  
19 to do with our division.

20 But the complaint statement,  
21 WQC-04248, comes to our division, and our  
22 division then is involved in conducting  
23 inspections and doing enforcement.

24 But the first parts of it deals with  
25 the dairy and has to do with the dairy inspectors